

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Josephine Ogboye	Team: Team # 2	CCRB Case #: 200907901	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 05/14/2009 8:30 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 11/14/2010	EO SOL 11/14/2010	
Date/Time CV Reported Fri, 05/15/2009 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/21/2009 1:50 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Juan Cruz	14330	941600	BX/Q IM
3. POM Wilson Verdesoto	26997	937685	BX/Q IM
4. POM Wilson Alba	09921	936109	BX/Q IM
5. An officer			
6. POF Shamika Rodgers	09860	942448	HBX/QIM

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Sean Lynch	04339	917115	BX/Q IM
2. POM Fernando Guerrero	25670	936710	BX/Q IM
3. SGT Joseph May	03567	925693	O C C B
4. POF Cristina Reyes	26891	936225	HBX/QIM

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Cruz	Force: PO Juan Cruz used physical force against § 87(2)(b)	
B.POM Wilson Alba	Force: PO Wilson Alba used physical force against § 87(2)(b) and § 87(2)(b)	
C.POM Wilson Alba	Force: PO Wilson Alba used pepper spray against § 87(2)(b) and § 87(2)(b)	
D.POM Wilson Alba	Discourtesy: PO Wilson Alba spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	
E.POM Wilson Alba	Force: PO Wilson Alba struck § 87(2)(b) with an asp.	

Officer(s)	Allegation	Investigator Recommendation
F.POM Wilson Verdesoto	Force: PO Wilson Verdesoto struck § 87(2)(b) and § 87(2)(b) with an asp.	
G.POM Wilson Verdesoto	Force: PO Wilson Verdesoto used physical force against § 87(2)(b) and § 87(2)(b)	
H. Officers	Force: Officers used physical force against § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b)	
I. Officers	Force: Officers struck § 87(2)(b) and § 87(2)(b) with their asps.	
J.POM Wilson Verdesoto	Discourtesy: PO Wilson Verdesoto spoke obscenely and/or rudely to § 87(2)(b)	
K. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
L.POF Shamika Rodgers	Discourtesy: PO Shamika Rodgers spoke obscenely and/or rudely to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on May 14, 2009 (encl. 5A-D). It was also filed with IAB on May 18, 2009, under log number 09-24255 (encl. 4A-D). On May 14, 2009, at approximately 7:30p.m., while PO Wilson Alba and PO Juan Cruz were conducting a vertical at § 87(2)(b) they stopped § 87(2)(b) who was suspected of possessing a criminal substance. The following allegations resulted from the officers' actions:

Allegation A – Use of Force: PO Juan Cruz used physical force against § 87(2)(b)

Allegation B – Use of Force: PO Wilson Alba used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation C – Use of Force: PO Wilson Alba used pepper spray against § 87(2)(b)

and § 87(2)(b) § 87(2)(g)

Allegation D – Discourtesy: PO Wilson Alba spoke obscenely and/or rudely to § 87(2)(b)

and § 87(2)(b) § 87(2)(g)

Allegation E – Use of Force: PO Wilson Alba struck § 87(2)(b) with an asp. § 87(2)(g)

Allegation F – Use of Force: PO Wilson Verdesoto struck § 87(2)(b) and § 87(2)(b) with an asp.

Allegation G – Use of Force: PO Wilson Verdesoto used physical force against § 87(2)(b)

and § 87(2)(b) § 87(2)(g)

Allegation H – Use of Force: Officers used force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) § 87(2)(g)

Allegation I – Use of Force: Officers struck § 87(2)(b) and § 87(2)(b) with their asps. § 87(2)(g)

Allegation J – Discourtesy: PO Wilson Verdesoto spoke obscenely to § 87(2)(b) § 87(2)(g)

Allegation K – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force. § 87(2)(g)

Allegation L – Discourtesy: PO Shamika Rodgers spoke obscenely and/or rudely to § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Victim: § 87(2)(b)

- § 87(2)(b) is a 5' 8" tall, 240-pound black male with black hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b) in Manhattan on November 13, 2009 (encl. 16A-D). On May 14, 2009, at approximately 8:30p.m., as § 87(2)(b) got on the elevator on the § 87(2)(b) floor of § 87(2)(b) in Manhattan, he observed PO Wilson Alba and PO Juan Cruz on the elevator. Both officers asked him if he lived in the building and requested his ID. § 87(2)(b) provided his ID and PO Cruz asked § 87(2)(b) if he had anything he was not supposed to have in his pockets. PO Cruz then reached into § 87(2)(b)'s left pants pocket. (During his CCRB testimony, § 87(2)(b) refused to state whether he had anything inside his pockets). § 87(2)(b) then grabbed PO Cruz's hand and told PO Cruz that he had no right to search him. PO Cruz then handcuffed § 87(2)(b)'s right hand and began to repeatedly punch § 87(2)(b) on his left temple. PO Alba then began to pepper-spray § 87(2)(b) in the face. At this point, they were already on the § 87(2)(b) floor where § 87(2)(b) was initially headed. § 87(2)(b) admitted that he was resisting when he was first pepper-sprayed, but he did not specify how because he had a pending criminal case and did not want to further implicate himself.

Once § 87(2)(b)'s eyes were pepper-sprayed, the officers were able handcuff both of his hands after which they threw him to the ground. PO Alba then placed his knee on § 87(2)(b)'s back and continued to pepper-spray him around his eyes and his head. § 87(2)(b) was kicking and moving his body around in order to get the officers off him. PO Alba ran out of pepper-spray and took PO Cruz's canister from him and continued to pepper-spray § 87(2)(b).

§ 87(2)(b) then called out to his sister, § 87(2)(b) for help. At this point, everyone on the fifth floor, including § 87(2)(b) came out to the hallway and § 87(2)(b) began questioning the officers' actions. The officers told § 87(2)(b) to "get the hell out of here." § 87(2)(b) also believed that PO Alba pepper-sprayed § 87(2)(b) because he heard her state something to the effect of "you maced me, you bastard." § 87(2)(b)'s nephew, § 87(2)(b) and the residents of apartment #§ 87(2)(b), which is next door to § 87(2)(b)'s apartment (#§ 87(2)(b)) were also part of the people in the hallway. The crowd did not physically interfere with the officers and § 87(2)(b) remained on the ground for approximately twenty minutes.

At some point while § 87(2)(b) was on the ground, backup officers arrived and immediately began to "go wild" by swinging and punching. Both § 87(2)(b) and § 87(2)(b) were punched while they were in the hallway but § 87(2)(b) could not tell by whom, how many times, or what parts of their bodies were punched. § 87(2)(b) also added that multiple officers used profanity and offensive language towards everyone by calling them "black mother fuckers," "stupid bastards" and "niggers." PO Alba also called § 87(2)(b) a "stupid black bitch" as he told her to get back into the house.

§ 87(2)(b) did not observe anyone throw any object at anyone at any point. Upon the arrival of the backup officers PO Alba and PO Cruz left § 87(2)(b) on the ground and approached the crowd. Multiple people were arrested and as they were being led downstairs, § 87(2)(b) heard and observed one of the backup officers, identified from his uniform as PO Wilson Verdesoto, punch § 87(2)(b) in the face. § 87(2)(b) sustained injuries to his skull and his jaw because PO Alba and PO Cruz repeatedly punched him around the left side of his face. He also

sustained cuts to his wrists and bruises to the bridge of his nose and was treated at § 87(2)(b)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old, black female. She declined to provide any further pedigree or employment information.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b), in Manhattan on August 26, 2009 (encl. 8A-D). § 87(2)(g)

After § 87(2)(b) heard § 87(2)(b) screaming out for her help, she ran out to the hallway. § 87(2)(b) observed § 87(2)(b) on the ground and bleeding from his nose and mouth. One of the officers, PO Juan Cruz, was beating him while the other officer, PO Wilson Alba, was pepper-spraying him. § 87(2)(b) questioned the officers and PO Alba told her to get back in the house, “bitch.” § 87(2)(b) continued to question the officers, and PO Alba pushed her, telling her to get back inside, and he also pepper-sprayed her in the eyes.

§ 87(2)(b) went back into her apartment at this point to wipe her eyes and also to bring some wipes for § 87(2)(b). However, she did not at any point physically interfere with the officers or try to assist § 87(2)(b). § 87(2)(b) followed § 87(2)(b) to the hallway at this point and § 87(2)(b)'s neighbors: § 87(2)(b) and § 87(2)(b) were also in the hallway and watching what was going on.

Soon after, more officers arrived and some of them, whom § 87(2)(b) could not describe, immediately grabbed § 87(2)(b) and slammed her into the wall, causing the left side of her face to hit the wall. The officers then threw her to the ground and began to kick and punch her all over her body. PO Alba returned at that point and also kicked § 87(2)(b) multiple times on the left leg. She was eventually led downstairs and on the second floor, § 87(2)(b) was met by a black female officer, identified through investigation as PO Shamika Rodgers. § 87(2)(b) asked PO Rodgers to allow her pull up her pants, which were falling off, but PO Rodgers told her to “shut the fuck up” and led her outside with her body exposed from her waist down. An officer helped her fix her pants only after she was placed into the transport van. § 87(2)(b) sustained bruises and knots to her head, and her right eye, her lips and her nose were bleeding. Her wrists were also bruised from the handcuffs which were placed tightly.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old, 5’ 6” tall, Hispanic female.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b) on June 26, 2009 (encl. 6A-E). § 87(2)(g)

Like § 87(2)(b), § 87(2)(b) also ran out of her apartment to observe what was going on after she heard screams from § 87(2)(b) in the hallway. She observed PO Alba and PO Cruz kicking § 87(2)(b) who was in handcuffs on the ground. § 87(2)(b) added that PO Alba told § 87(2)(b) to “shut the fuck up” as he yelled that his eyes were burning. PO Alba also sprayed his pepper-spray into the air towards the crowd as they repeatedly yelled “police brutality,” but the pepper-spray did not hit anyone. Both officers also repeatedly told them to “shut the fuck up” and to keep away.

At some point, backup officers arrived with their nightsticks in their hands and repeatedly yelled, “Get the fuck inside.” As § 87(2)(b) and the rest of the crowd ran into their apartments, § 87(2)(b) s mum, § 87(2)(b) was pushed to the ground from the impact of the officers rushing towards them. § 87(2)(b) sustained a bruise to her knee cap and received medical treatment. Multiple officers, including PO Alba, entered § 87(2)(b) s apartment. PO Alba approached § 87(2)(b) s § 87(2)(b) -year-old son, § 87(2)(b) who had been standing at the entrance of the apartment and recording the officers with his cell phone video camera, which was missing after the incident. PO Alba told him that if he “fucked” with them, they will “fuck” him up. Approximately five more unidentified officers approached at this point and they beat § 87(2)(b) all over his body with their nightsticks. The officers also repeatedly told him to “shut the fuck up” as he yelled for his asthma pump, kicked him in the face, and slapped him on his back.

As § 87(2)(b) screamed at the officers to stop beating § 87(2)(b) her cousin, § 87(2)(b) who just exited the kitchen, was grabbed by approximately ten other unidentified officers who kicked and beat him with their night sticks. § 87(2)(b) used his hands to try to block the kicks and strikes from the officers. As § 87(2)(b) continued to yell at the officers to stop, some of them told her to “get the fuck inside” and to “move the fuck back,” and they pushed her into her bedroom. § 87(2)(b) s other son, § 87(2)(b) was in the bedroom and an unidentified female officer grabbed him by his braids and hit his head against the door as she led him out. Both the unidentified female officer and another male officer told § 87(2)(b) to “shut the fuck up” as she protested their treatment of § 87(2)(b).

While her children were being led downstairs, § 87(2)(b) observed officers kicking § 87(2)(b) in her face while she was in handcuffs and on the ground.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) -year-old, 5’ 6” tall, 215-pound Hispanic male with black hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b) on October 14, 2009 (encl. 10A-D). § 87(2)(g) § 87(2)(b) corroborated that he just exited the kitchen when PO Alba entered the apartment and repeatedly punched and kicked § 87(2)(b) PO Alba also repeatedly told § 87(2)(b) to “shut the fuck up” as he screamed and requested his asthma pump. However, he did not corroborate the fact that PO Alba or any other officers used their asps against § 87(2)(b).

As § 87(2)(b) questioned PO Alba, another officer identified from his uniform as PO Verdesoto, entered the apartment and immediately grabbed § 87(2)(b) by his shirt, told him “shut the fuck up” and threw him to the corner of the living room. PO Verdesoto then removed his asp and began to hit § 87(2)(b) all over the left side of his body, specifically his ribs, below his buttocks, his legs, his left shoulder, and across his chest. PO Verdesoto struck § 87(2)(b) approximately three to four times as § 87(2)(b) tried to use his hands to block the impact of the asp. PO Verdesoto also repeatedly told § 87(2)(b) to “shut the hell up.” PO Verdesoto then threw § 87(2)(b) to the ground and approximately five more unidentified officers approached and repeatedly kicked him all over his body, including the left side of his face. During this time, PO Alba and some other unidentified officers were dealing with § 87(2)(b) on a different side of the living room. § 87(2)(b) was eventually handcuffed and led out of the apartment by PO Verdesoto. At this point, § 87(2)(b) observed an unidentified female grab § 87(2)(b) by his ponytail and hit his head against the door as she led him outside.

Once § 87(2)(b) was brought to the hallway, PO Alba again told § 87(2)(b) to “shut the fuck up” and punched his face, causing his head to slam against the wall. § 87(2)(b) observed § 87(2)(b) and § 87(2)(b) being led downstairs in handcuffs. PO Verdesoto walked § 87(2)(b) downstairs and repeatedly punched him approximately four times on the right side of his face until he got to the lobby downstairs. § 87(2)(b) sustained bruises to his arms, left shoulder, chest, wrist, left buttocks, his right thigh, and above his right eyebrow from the kick to his face while he was on the ground.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old, black male with black hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b) on October 15, 2009 (encl. 12A-E). § 87(2)(g)

§ 87(2)(b) However, he made no mention of any profanity used by any officer at this point or of § 87(2)(b) being pepper-sprayed.

Upon the arrival of the backup officers, PO Verdesoto immediately took out his asp and struck it against the door, causing the crowd to back up. PO Verdesoto and some other unidentified officers then rushed towards § 87(2)(b) and pulled him by his jacket. § 87(2)(b) yanked himself back, removed his jacket and freed himself from the officers’ grip. He then entered and shut the door to § 87(2)(b)’s apartment, where he went to tend to his three-year-old son. § 87(2)(b) did not swing at the officers or throw any object at anyone, and he did not see anyone throw any object at the officers.

The officers banged on the door and about a minute later, § 87(2)(b) opened the door to approximately six officers who rushed into the apartment. § 87(2)(b) sat on the couch and had his son on his lap as he dressed him up. An unidentified officer took his son from him and PO Verdesoto stated to him, “You wanna throw stuff?” § 87(2)(b) denied throwing anything and PO Verdesoto struck him on his back with his asp. PO Verdesoto then instructed § 87(2)(b) to get up and he was led out of the apartment.

Once § 87(2)(b) got to the hallway, an unidentified officer punched him on the right side of his face, causing him to fall to the ground. Multiple unidentified officers then repeatedly punched and kicked § 87(2)(b) all over his body. § 87(2)(b) tried to use his hands to protect his face as the officers punched him and instructed him to place his hands behind his back. § 87(2)(b) complied and his was rear cuffed as other officers grabbed his legs, although he was not kicking. The left side of § 87(2)(b)’s body was on the ground and the officers continued to punch and kick him around the right side of his face and his head and stumped him all over his body for approximately one more minute. § 87(2)(b) questioned the officers’ actions and an unidentified officer placed a tazer gun in his face and told him that if he moved, he would taze him.

§ 87(2)(b) told the officers that he was not moving and could not move because he was already in handcuffs. His vision was also blurry because he was bleeding all over his face and his right eye which was blood shut. § 87(2)(b) was on the ground for approximately five minutes before the officers picked him up and placed him against the wall. He was later transported to the hospital because he suffered a fractured eye socket and nose. He also sustained bruises to his back, shoulders, neck and forehead.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-year-old, 6ft tall, 180-pound black male with black hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at § 87(2)(b) on October 15, 2009 (encl. 14A-D). § 87(2)(b) was not present for the initial part of the incident and only arrived on the § 87(2)(b) floor after everyone else who was arrested had been taken downstairs. When § 87(2)(b) arrived on the § 87(2)(b) floor, he observed approximately fifteen to twenty uniformed male officers in the hallway. § 87(2)(b) observed his brother, § 87(2)(b)'s bloody jacket on the ground and asked the officers what happened. The officers, two of whom § 87(2)(b) identified as PO Cruz and PO Alba, instructed § 87(2)(b) to leave. One of the officers told him to "Get the fuck out of here" or he would have a problem. § 87(2)(b) insisted that he needed to know what happened because his brother's jacket was bloody on the ground. The officer then told § 87(2)(b) that he had three seconds to leave, counted to three, and punched § 87(2)(b) in the right temple. § 87(2)(b) stumbled from the impact and other officers rushed towards him, repeatedly punched him around his head and his ribs and instructed him to place his hands behind his back. He was then handcuffed approximately thirty seconds after he fell to the ground from the impact of the officers who rushed towards him.

At this point, an officer pepper-sprayed § 87(2)(b) on the left side of his face and in his eyes. He tried was then led downstairs and he sustained a black eye and a cut to his left eye.

Attempts to Contact Civilians

§ 87(2)(b) and § 87(2)(b) were not interviewed because the undersigned investigator could not schedule an appointment with them despite numerous attempts to do so through their attorney at § 87(2)(b) between April, 2009 and October, 2009.

NYPD Statement(s):

Subject Officer: PO JUAN CRUZ

- PO Cruz is a § 87(2)(b)-year-old, 5' 7" tall, 170-pound Hispanic male with black hair and brown eyes.
- On May 14, 2009, PO Cruz worked from 6:00p.m. to 8:00a.m. on May 15, 2009. He was assigned to patrol the confines of the "Forest" and "McKinley" NYCHA Housing Developments. His partner was PO Wilson Alba. They were both in uniform and on foot.

Memo Book

At 8:10p.m., he conducted a vertical at § 87(2)(b). At 8:25p.m., he stopped § 87(2)(b) on the § 87(2)(b) floor. He was observed placing two clear bags containing cocaine into his right coat pocket. While PO Cruz was effecting a lawful arrest of § 87(2)(b) he was attacked by a large group of people. Approximately eight to ten people obstructed governmental administration and § 87(2)(b) tried to give his coat containing the cocaine to the crowd. The defendant pushed, shoved and yelled. A large glass object was thrown at police officers causing laceration to a civilian and to Sgt. Lynch's face. At 8:54p.m., seven people were under arrest on the fifth floor of § 87(2)(b). During arrest processing, two bags of cocaine were recovered from § 87(2)(b) DOB § 87(2)(b) arrest #§ 87(2)(a) 160.50 § 87(2)(b) arrest § 87(2)(a) 160.50, DOB § 87(2)(b), § 87(2)(a) Fam. Ct. Act § 381.3. At 2:00a.m., juveniles were released to mother, § 87(2)(b). At § 87(2)(b), en route to § 87(2)(b) to pick up § 87(2)(b) (encl. 18A-G).

CCRB Testimony

PO Cruz was interviewed at the CCRB on February 8, 2010 (encl. 21A-C). On May 14, 2009, at approximately 8:30p.m., at § 87(2)(b) in the Bronx, while PO Cruz and PO Alba were in the elevator and on their way downstairs after conducting a vertical, the elevator stopped on the tenth floor. PO Cruz observed § 87(2)(b) who was about to get on the elevator, quickly place two white plastic bags containing white substance into his right coat pocket as the doors to the elevator opened. The officers then questioned § 87(2)(b) and requested his ID as the elevator went down and stopped on the § 87(2)(b) floor where § 87(2)(b) was about to get off.

Although PO Cruz was certain that he had observed narcotics on § 87(2)(b) § 87(2)(b) was not under arrest at this point because the officers were still trying to obtain information from him. After § 87(2)(b) provided his ID, the officers asked him if he had any contraband on him and he denied this. The officers then told him that he would be searched and PO Cruz reached for the pocket in which § 87(2)(b) had placed the drugs in. § 87(2)(b) immediately went ballistic and began to yell and fight off the officers by grabbing PO Cruz's hand out of his pocket and moving away from the officers. At this point, § 87(2)(b) was no longer free to leave because he resisted the officers and refused to allow them to search him.

A large crowd immediately began to form in the hallway as the officers were still trying to restrain § 87(2)(b) who continued to struggle and tried to give his coat to the crowd. One of § 87(2)(b)'s hands was in handcuffs and during the struggle, § 87(2)(b) and the officers fell to the ground. PO Cruz tried to hold § 87(2)(b) down while PO Alba was trying to keep the crowd from interfering. PO Cruz then handed PO Alba his pepper-spray and PO Alba pepper-sprayed § 87(2)(b) in his eyes because he violently struggled and resisted the officers. He moved erratically from wall to wall, preventing the officers from handcuffing him. During this time, both officers repeatedly told the crowd to stay back but they did not comply and tried to help § 87(2)(b) get his coat away from the officers.

At some point while still trying to handcuff § 87(2)(b) PO Cruz called for backup officers who responded shortly afterwards. Before the arrival of the backup officers, the crowd became very loud and wild and when the backup officers arrived, everything "went crazy." The backup officers tried to keep the crowd back but someone threw a large glass object which hit the wall, shattered, and hit Sgt. Sean Lynch and another individual in the crowd. Sgt. Lynch suffered a laceration to his eye. § 87(2)(b) stopped struggling and the officers were able to handcuff him. PO Cruz remained with § 87(2)(b) and searched his coat pocket where he retrieved two bags of cocaine.

At some point after the backup officers arrived, PO Alba left PO Cruz and joined the backup officers to control the crowd. However, PO Cruz did not know exactly who PO Alba dealt with or where PO Alba went. At no point did PO Alba or PO Cruz use profanity towards anyone and PO Alba did not spray his mace in the air in order to keep the crowd back.

Subject Officer: PO WILSON ALBA

- *PO Alba is a § 87(2)(b)-year-old, 5' 8" tall, 185-pound Hispanic male with black hair and brown eyes.*
- *PO Alba worked from 6:20p.m. to 5:05a.m. PO Alba was assigned to the IRT unit, post 12, in the vicinity of Forrest and McKinley Houses. His partner was PO Cruz. They were both in uniform and on foot.*

Memo Book

At 8:10p.m., PO Alba was conducting a vertical at § 87(2)(b) § 87(2)(b). At 8:25p.m., defendant § 87(2)(b) was stopped on the § 87(2)(b) floor after being observed placing a white

substance in his right coat pocket. § 87(2)(b) tried to take § 87(2)(b)'s coat knowing that the drugs were inside after § 87(2)(b) told her to do so. § 87(2)(b) scratched the right side of PO Alba's coat several times. At 8:54p.m., seven people were under arrest and PO Alba went to § 87(2)(b) at § 87(2)(b). He was discharged at § 87(2)(b) with no fractures but swelling and bruises (encl. 30A-C).

CCRB Testimony

PO Alba was interviewed at the CCRB on March 23, 2010 (encl. 31A-C). § 87(2)(g) He corroborated the fact that § 87(2)(b) was observed placing narcotics in his right coat pocket. The officers obtained his ID from him in case he tried to run. § 87(2)(b) was headed to the fifth floor and attempted to get away from the officers after they asked him about what he had in his pocket.

PO Alba corroborated PO Cruz's assertion about the struggle that ensued and how § 87(2)(b) tried to hand his coat to the crowd. PO Alba pepper-sprayed § 87(2)(b) with PO Cruz's pepper-spray because he violently resisted being arrested. During the struggle, some of the people in the crowd took swings at PO Alba as they interfered with § 87(2)(b)'s arrest. Also, § 87(2)(b) scratched PO Alba above his right eye, but PO Alba did not at any point spray the pepper-spray into the air or at anyone in the crowd. Also, PO Alba did not call § 87(2)(b) a "bitch" at any point.

PO Alba and PO Cruz repeatedly verbally instructed the crowd to stay away, and they soon after called for backup officers, who arrived approximately five minutes later. As the backup officers tried to control the crowd, an individual from the crowd (and whom PO Alba identified from the arrest photo as § 87(2)(b)) threw a glass object which shattered and struck Sgt. Lynch and another female. § 87(2)(b) was eventually handcuffed and PO Cruz remained with him, while PO Alba went after § 87(2)(b) who struck him and had been interfering with the arrest of § 87(2)(b).

§ 87(2)(b) entered the § 87(2)(b) apartment. Because § 87(2)(b) struck PO Alba, PO Alba asserted that he had cause to chase him into the apartment to arrest him. PO Alba observed § 87(2)(b) in the living room and pinned him to the floor of the apartment to handcuff him. PO Alba was assisted by other unidentified officers because § 87(2)(b) resisted. PO Alba did not have his asp with him because it was lost, and he did not see any officer strike § 87(2)(b) with an asp. Also, PO Alba did not use any profanity towards § 87(2)(b) or anyone else inside the apartment.

While PO Alba was arresting § 87(2)(b) he observed other officers enter into the apartment to arrest another individual identified from his arrest photo as § 87(2)(b). PO Alba observed § 87(2)(b) after he was in handcuffs, but he did not see which officers arrested him. PO Alba did not punch § 87(2)(b) or have any physical contact with § 87(2)(b).

PO Alba identified § 87(2)(b) from the arrest photo as the individual he interacted with after everyone else had been led downstairs. § 87(2)(b) questioned the officers and PO Alba and some other officers in the hallway instructed § 87(2)(b) several times to leave. However, he refused and tried to get in between the officers to enter § 87(2)(b)'s apartment. PO Alba, whose right hand was already injured and swollen from being struck while handcuffing § 87(2)(b) then tried to grab § 87(2)(b)'s coat. However, § 87(2)(b) slipped out of PO Alba's grip and entered the stairwell, where he tripped and may have hit either his shoulder or face against the wall. He was then handcuffed and led downstairs. Neither PO Alba nor any other officer pepper-sprayed § 87(2)(b) at any point during his arrest. PO Alba did not have any further interaction or physical contact with § 87(2)(b) and he did not see when she was handcuffed or led downstairs. PO Alba did not know what role PO Verdesoto played during the incident.

Subject Officer: WILSON VERDESOTO

- *PO Verdesoto is a § 87(2)(b)-year-old, 5' 10" tall, 240-pound Hispanic male with brown hair and brown eyes.*
- *PO Verdesoto worked from 6:00p.m. on May 14, 2009 to 4:35p.m. on May 15, 2009. PO Verdesoto was assigned as Sgt. Sean Lynch's operator and to vehicle #5934. They were both in uniform.*

Memo Book

At 8:30, there was a call for assistance at § 87(2)(b) § 87(2)(b). At 8:40p.m., three individuals were under arrest § 87(2)(b) DOB § 87(2)(b), § 87(2)(a) 160.50; § 87(2)(b) DOB § 87(2)(b), § 87(2)(a) 160.50; § 87(2)(b) DOB § 87(2)(b), § 87(2)(a) 160.50 (encl. 22A-C).

CCRB Testimony

PO Verdesoto was interviewed at the CCRB on February 17, 2010 (encl. 27A-C). § 87(2)(g) When PO Verdesoto entered into the hallway of the § 87(2)(b) floor, he observed PO Cruz and PO Alba on the ground and struggling with approximately three to four people. PO Verdesoto noted that the situation was chaotic and almost immediately after the backup officers arrived, § 87(2)(b) threw a glass object against the wall and it shattered, hitting Sgt. Lynch's left eyebrow and another female. § 87(2)(b) ran into the apartment and multiple officers, whom PO Verdesoto could not identify, followed him to apprehend him. PO Verdesoto was standing beside Sgt. Lynch at this point and was far behind the officers who went to apprehend § 87(2)(b).

PO Verdesoto might have entered one of the apartments at some point to assist in arresting individuals, but he did not participate in the arrest of § 87(2)(b) or use any form of physical force against him. Also, PO Verdesoto could not specify who he engaged or arrested inside the apartment. PO Verdesoto did not observe § 87(2)(b) on the ground in the hallway, and he did not observe any officers punch or kick § 87(2)(b). He did not observe § 87(2)(b)'s demeanor or physical condition after he was brought out of the apartment.

PO Verdesoto identified § 87(2)(b) from his arrest photo as one of the individuals in the crowd he was instructing to back up before the glass object was thrown. However, PO Verdesoto did not have any further interaction with § 87(2)(b) and he did not know where § 87(2)(b) was when he was arrested. Also, PO Verdesoto did not interact with § 87(2)(b) or § 87(2)(b). PO Verdesoto did not escort any of the arrestees downstairs but left with Sgt. Lynch because he was bleeding from the injury above his eyebrow.

Witness Officer: SGT. SEAN LYNCH

- *Sgt. Lynch is a § 87(2)(b)-year-old, 6' 1" tall, 225-pound white male with brown hair and black eyes.*
- *On May 14, 2009, Sgt. Lynch worked from 5:50 p.m. to 4:47 a.m. the following morning. He was assigned as the patrol supervisor for the Housing Bureau IRT within the confines of the Webster/Butler Houses and the Forest/McKinley Houses. He was assigned to a marked patrol car #9534, and his operator was PO Verdesoto.*

Memo Book

At 8:30p.m., there was a call for assistance at § 87(2)(b) § 87(2)(b). At 8:40p.m., seven people were under arrest in regards. At 9:10a.m., Sgt. Lynch was doing administrative work at

PSA 7. At § 87(2)(b), Sgt. Lynch went to § 87(2)(b) for treatment. At § 87(2)(b), Sgt. Lynch went back to PSA 7 for administrative work, and at 4:47a.m., he ended his tour (encl. 28A-B).

CCRB Testimony

Sgt. Lynch was interviewed at the CCRB on March 17, 2010 (encl. 29A-C). § 87(2)(g) When Sgt. Lynch arrived, there were already other backup officers in the hallway. There was also a large crowd and PO Alba and PO Cruz were with § 87(2)(b) who was in handcuffs and on the ground. As the backup officers were keeping the crowd back and Sgt. Lynch was trying to ascertain what had happened from PO Alba and PO Cruz, the crowd continued to be agitated and § 87(2)(b) threw a large glass candle holder which struck Sgt. Lynch above his left eye.

This resulted in a commotion, and within two to three minutes of the arrival of the backup officers, a total of seven individuals were arrested. However, Sgt. Lynch did not know specifically what led to the arrests of these individuals, except for § 87(2)(b) who had thrown the glass object. Sgt. Lynch did not see when § 87(2)(b) was arrested or when physical force was used against him. However, after viewing § 87(2)(b)'s arrest photo, Sgt. Lynch suggested that § 87(2)(b) probably received his injuries from the officers' reaction to his throwing of the glass object. Also, Sgt. Lynch does not carry a tazer and did not have a tazer gun on him or threaten to tazer § 87(2)(b) at any point, and he did not observe any officer do so to § 87(2)(b). Sgt. Lynch did not hear any officer use profanity towards anyone and he did not use profanity towards anyone. Sgt. Lynch did not recall any other supervisor on scene except for Cpt. Christopher Ikone who arrived after the situation was under control and when all the arrestees were being transported to the stationhouse.

Subject Officer: PO SHAMIKA RODGERS

- *PO Rodgers is a § 87(2)(b)-year-old, 5' 2" tall, 190-pound black female with black hair and brown eyes.*
- *She worked from 6:00p.m. to 2:35am. She was assigned to Post 8 in the confines of the Webster/Butler Housing Development along with PO Lau. They were both in uniform and on foot.*

Memo Book

At 8:45, there was a call for assistance at § 87(2)(b) and PO Rodgers arrived at the location at 9:10p.m (encl. 32A-B).

CCRB Testimony

PO Rodgers was interviewed at the CCRB on March 25, 2010 (encl. 33A-B). PO Rodgers arrived at the location after everyone was already in handcuffs. PO Rodgers did not enter any of the apartments but escorted § 87(2)(b) downstairs to the prisoner van. She did not recall § 87(2)(b)'s physical condition or if her pants were falling off from her waist. PO Rodgers did not tell § 87(2)(b) to "shut the fuck up." PO Rodgers did not observe any officer use physical force or profanity towards anyone.

Witness Officer: SGT. JOSEPH MAY

- *Sgt. May is a § 87(2)(b)-year-old, 6' 7" tall, 200-pound white male with blond hair and blue eyes.*

- *He worked from 5:50p.m. to 4:47a.m. as the patrol supervisor for PSA 7. He was working with PO Guerrero, who was his driver. They were assigned to a marked van.*

Memo Book

At 8:40p.m., Sgt. May was en route to § 87(2)(b) in response to a call for assistance. At 8:45p.m., he arrived at the location. At 9:20p.m., he was back at PSA7. At § 87(2)(b) he was taken in an ambulance to § 87(2)(b). He left § 87(2)(b) at § 87(2)(b), and arrived back at PSA7 at 3:20a.m (encl. 34A-C).

CCRB Testimony

Sgt. May was interviewed at the CCRB on April 5, 2010 (encl. 35A-B)). When Sgt. May got to the hallway of the § 87(2)(b) floor, he observed a lot of people screaming and yelling. Sgt. May approached the crowd and tried to calm them down when someone from the crowd grabbed his foot and twisted his ankle. Sgt. May was unable to walk properly at that point, so he left the hallway and went back downstairs. Sgt. May did not have any further interaction with anyone and he did not observe any officer use physical force or profanity against anyone.

Witness Officer: PO CRISTINA REYES

- *PO Reyes is a § 87(2)(b)-year-old, 5' 7" tall, 125-pound Hispanic female with blond hair and brown eyes.*
- *She worked from 6:00p.m. to 5:05a.m. on May 15, 2009. She was assigned to the Housing Borough Bronx Impact Response Team. She was working with PO Guerrero and Sgt. May. They were all in uniform.*

Memo Book

At 8:40p.m., she resumed patrol in van #9463 with Sgt. May and PO Guerrero in response to a 10-85 at § 87(2)(b). At 8:45p.m., they arrived on the § 87(2)(b) floor of the location. At 9:15p.m., PO Reyes was on her way back to PSA7 in regards to seven people under arrest from § 87(2)(b). At 9:20p.m., she arrived at PSA7, assisting PO Cruz and PO Verdesoto with arrests. At § 87(2)(b), PO Reyes was en route to § 87(2)(b) to pick up PO Faiola and a Juvenile, § 87(2)(b). At § 87(2)(b), she was en route back to PSA7. At 11:15p.m., she arrived back at PSA7 and was on administrative duties until her end of tour (encl. 36A-C).

CCRB Testimony

PO Reyes was interviewed at the CCRB on April 14, 2010 (encl. 37A-B). § 87(2)(g) When PO Reyes arrived, she observed some individuals in handcuffs. From the hallway, PO Reyes also observed a naked § 87(2)(b)-year-old child inside § 87(2)(b)'s apartment and was instructed by Cpt. Christopher Ikone to attend to the child. PO Reyes entered the apartment and went into the bedroom to get clothes on the child. She observed another unidentified young male in the room and he was removed from the apartment but not arrested. No physical force was used against this individual.

PO Reyes did not interact with any individual who had braids and she did not participate in handcuffing or restraining anyone. Also, PO Reyes did not observe any officer use physical force against anyone.

Witness Officer: PO FERNANDO GUERRERO

- *PO Guerrero is a § 87(2)(b)-year-old, 6ft tall, 210-pound Hispanic male with black hair and brown eyes.*
- *He worked from 4:00p.m. to 4:35p.m. He was assigned as Sgt. May's operator in van #9463. PO Christina Reyes was also in the van along with PO Guerrero and Sgt. May. They were patrolling the housing borough within the confines of the 48th Precinct. They were all dressed in uniform.*

Memo Book

At 8:40p.m., PO Guerrero received a call for assistance from § 87(2)(b) on the 5th floor. They arrived at the location at 8:45p.m. At 9:15p.m., he returned to PSA7 and arrived at 9:20p.m. At § 87(2)(b), he went to § 87(2)(b) for a knee injury. He left § 87(2)(b) at § 87(2)(b), and he arrived back at the stationhouse at 3:20a.m. (encl. 38A-B).

CCRB Testimony

PO Guerrero was interviewed at the CCRB on April 23, 2010 (encl. 39A-B). Just like Sgt. May, PO Guerrero was on the § 87(2)(b) floor for a very brief moment because he got injured soon after he arrived. PO Guerrero got upstairs before Sgt. May and PO Reyes because he ran faster than them and as he opened the door to the stairwell to enter the hallway, someone threw a glass object which shattered and struck Sgt. Lynch. PO Guerrero quickly shut the door to dodge the glass and opened it again to enter the hallway. As he tried to assist in getting the crowd back, he somehow struck his knee against the ground and got hurt. PO Guerrero then left and went downstairs without any further incident with anyone. PO Guerrero did not participate in restraining or arresting anyone and did not use physical force against anyone. PO Guerrero acknowledged that he observed when Sgt. May was also injured and they both left the hallway around the same time.

Medical Records

§ 87(2)(b)

Medical records (encl. 40A-F) received from § 87(2)(b) note that on § 87(2)(b), he was diagnosed with facial injuries and wrist sprains. However, there were no open lacerations observed.

§ 87(2)(b)

Records (encl. 41A-O) obtained from § 87(2)(b) note that on § 87(2)(b), she had a contusion to her face and back and a laceration beneath her right eye. CT scans conducted her for brain/face/abdomen/pelvis were unremarkable. There was soft tissue swelling along her right cheek but no acute facial or head fracture.

§ 87(2)(b)

Records (encl. 42A-JJJ) obtained from § 87(2)(b) revealed that on § 87(2)(b), § 87(2)(b) complained of pain to his face and back from being punched numerous times and pain to his left shoulder blade from being hit by a "rod." X-Rays were conducted and he was diagnosed with a fracture to his right medial orbital wall (eye socket) which was moderately depressed. He also had an abrasion to his cornea. He was discharged on § 87(2)(b) with painkillers and asked to follow for further treatment on § 87(2)(b) and § 87(2)(b). No surgical intervention was necessary at the time.

§ 87(2)(b)

Records (encl. 43A-Y) received from § 87(2)(b) note that on § 87(2)(b), revealed that he suffered and was diagnosed with rib contusions but X-Rays returned negative for any fractures. He was released with Percocet for pain relief.

NYPD Document(s)

Arrest Photo

§ 87(2)(b)'s photo (encl. 9A) does not reveal any visible injuries.
§ 87(2)(b)'s photo (encl. 11A) reveals redness to the bridge of his nose and above his eye brows. It also revealed that his shirt was ripped.
§ 87(2)(b)'s photo (encl. 13A) reveals redness and swelling to his forehead, swelling to his right eye which appears blood shut, and dry blood above his upper lip and around his nostrils.
§ 87(2)(b)'s arrest photo (encl. 15A) reveals redness around his right cheek.
§ 87(2)(b)'s photo (encl. 17A) does not reveal any visible injuries.

Unusual Occurrence Report

The report (encl. 44A-B) provides a synopsis of the incident, lists everyone who was arrested and their related injuries as well as the officers who sustained injuries during the incident. The report was issued and signed by Cpt. Ikone on May 15, 2009.

Sprint

The document (encl. 45A-D) reveals that during a vertical at the location, an arrest was made on the § 87(2)(b) floor at 8:12p.m. It also reveals that multiple calls requesting backup officers were made by officers. The IRT sergeant arrived at the location at 8:37p.m. More backup officers responded, EMS was called to the scene for injured officers and one civilian with a laceration to the face, and seven arrests were made in total. EMS was also requested by the housing captain to the PSA for the injured arrestees.

Aided Report

The report (encl. 46A-F) reveals that PO Alba was struck on his right hand by an unknown object causing pain and swelling and was scratched on the right side of his face.

The report (encl. 47A-E) reveals that PO Guerrero was stuck on the left knee with an unknown object causing severe pain and swelling.

The report (encl. 48A-E) reveals that an individual grabbed Sgt. May by his left ankle which was twisted, causing a sprain and swelling.

The report (encl. 49A-E) reveals that Sgt. Lynch was struck on his head with a heavy glass object causing a laceration above his left eye and cuts to his face.

Line of Duty (LOD) Report

LOD reports were prepared for PO Alba (encl. 50A-C), PO Guerrero (encl. 51A-C), Sgt. May (encl. 52A-C) and Sgt. Lynch (encl. 53A-C). The information in the LOD reports corroborates the information in the Aided reports.

Roll Call

The roll call (encl. 54A-B) confirms that all the listed subject and witness officers worked on the incident date.

Command Log

The log (encl. 55A-H) documents the arrests of everyone who was arrested. It notes PO Verdesoto as the arresting officer for § 87(2)(b) and § 87(2)(b) while PO Cruz was the arresting officer § 87(2)(b) and § 87(2)(b).

Medical Treatment of Prisoner Form

The forms (encl. 56A-D) indicate the injuries sustained by the injured civilians. However, the form for § 87(2)(b) was not received.

Property Clerk's Invoice

One invoice (encl. 57D) notes that two bags crack cocaine were retrieved from § 87(2)(b) and vouchered as arrest evidence. Another (encl. 57A) notes that one clear Ziploc bag of marijuana was found on § 87(2)(b) and vouchered as arrest evidence. The other invoices (encl. 57B-C) indicate the personal properties of the arrestees vouchered for safekeeping.

Prisoner Holding Pen Roster

The information in the document (encl. 58A-B) is consistent with that in the log.

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) claiming physical, psychological, and personal injuries and seeking ten million dollars as redress (encl. 7A-C).

Civilian(s) Criminal History

- [illegible]

Civilian(s) CCRB History

- This is the second CCRB complaint filed by § 87(2)(b) § 87(2)(b)
- This is the first CCRB complaint on record for § 87(2)(b) and § 87(2)(b) and § 87(2)(b) (encl. 3B-F)

Subject Officer(s) CCRB History

- PO Cruz has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Alba has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 2B).
- PO Verdesoto has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 2C).
- PO Rodgers has been a member of the service for three years and there are no substantiated CCRB allegations against her (encl. 2D).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g) alleged PO Alba used offensive language towards § 87(2)(b) § 87(2)(b) did not allege this at the time of her interview. § 87(2)(g) § 87(2)(b) also alleged that the backup officers used offensive language towards the crowd. § 87(2)(g) none of the individuals interviewed alleged this at the time of their interviews. § 87(2)(g)

Allegation A – Use of Force: PO Juan Cruz used force against § 87(2)(b)

Allegation B – Use of Force: PO Wilson Alba used force against § 87(2)(b)

and § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b)

admitted that he resisted when the officers tried to handcuff him. § 87(2)(g)

Patrol Guide Section 203-11 provides that only the amount of force necessary to overcome resistance should be used to effect an arrest (encl. 1A). Also Patrol Guide Section 212-95 provides that “pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance” (encl. 1B). § 87(2)(g)

§ 87(2)(g)

Allegation C – Use of Force: PO Wilson Alba used pepper spray against § 87(2)(b)

and § 87(2)(b)

§ 87(2)(g)

Allegation D – Discourtesy: PO Wilson Alba spoke obscenely and/or rudely to § 87(2)(b)

and § 87(2)(b)

As established in PD v. Dukes, OATH Index Nos. 1137-39/00 (Apr. 26, 2000), when profane language is used in the context of arresting or attempting to ensure submission to handcuffs, it is not considered misconduct (encl. 1C). Also, as established in PD v. White, OATH Index Nos. 78667/03 (Oct. 7, 2004), there are recognized instances where the use of profanity by members of the Department is not considered to be actionable misconduct (encl. 1D-F).

It is undisputed that the officers instructed the crowd numerous times to backup. However, the officers denied that any profanity was used. § 87(2)(g)

§ 87(2)(g)
[REDACTED]

Allegation E – Use of Force: PO Wilson Alba struck § 87(2)(b) with an asp

§ 87(2)(b)'s mother, § 87(2)(b) alleged that PO Alba and other unidentified officers struck § 87(2)(b) with their asps. However, PO Alba maintained that he did not use his asp against § 87(2)(b). PO Alba asserted that he could not have used his asp because it got lost prior to the incident and has not since been replaced. Finally, § 87(2)(b) who corroborated other claims of force used against § 87(2)(b) did not corroborate § 87(2)(b)'s claim about the asp and did not allege that any officer used their asps against § 87(2)(b).

§ 87(2)(g)
[REDACTED]

Allegation F – Use of Force: PO Wilson Verdesoto struck § 87(2)(b) and § 87(2)(b) with an asp

Allegation G – Use of Force: PO Wilson Verdesoto used physical force against § 87(2)(b) and § 87(2)(b)

PO Verdesoto denied that he ever used his asp against anyone. He acknowledged that he might have assisted officers in physically restraining some of the arrestees, but he did not recall which one of them he assisted with, and he denied kicking or punching anyone. PO Verdesoto did not recall if he entered into any of the apartments to apprehend anyone. However, he asserted that he did not have any direct physical contact with § 87(2)(b) and was not part of the officers who went after § 87(2)(b) after he threw the glass object at the officers.

§ 87(2)(g)
[REDACTED]

Allegation H – Use of Force: Officers used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(b) and § 87(2)(b)

Allegation I – Use of Force: Officers struck § 87(2)(b) and § 87(2)(b) with their asps

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: 2

Investigator: _____ Josephine Ogboye _____
Signature Print Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date